figures.[603] We agree with Ameritech that the trunk blocking data may not accurately reflect the impact of trunk group blockage, but we are unconvinced that the figures overstate the amount of blockage. Because the number of trunks in a trunk group may vary by trunk group, the Commission cannot evaluate the impact of the reported trunk blockage without knowing the number of trunks in the particular blocked trunk groups.[604] Clearly, blockage on a large trunk group serving a major metropolitan area could result in a greater number of blocked calls than would blockage on a smaller trunk group. In addition, without more information, the Commission cannot determine the magnitude of the reported blockage. Because Ameritech's data only show the percentage of trunk groups in which more than 2 percent of the calls were blocked during the busy hour, the Commission cannot ascertain whether these trunk groups blocked closer to 2.1 percent of the calls or 50 percent of the calls during the system busy hour.[605]

234. Moreover, Ameritech acknowledges that its reports of the frequency with which call blocking in a particular trunk group exceeds 2 percent do not indicate the actual percentage or number of calls that are not completed.[606] Therefore, there is no evidence in the record regarding the extent to which blockage on EOI trunk groups delivering traffic to competing LECs has resulted in uncompleted calls. Even if a call routed to a particular trunk group is blocked, whether or not a call is ultimately completed depends in part on network architecture. A blocked call may be re-routed and completed over another trunk group, if the network architecture is redundant.

235. Ameritech contends that the local and intraLATA EOI trunk group blockages reflected in the EOI trunk blocking data did not uniformly result in uncompleted calls,

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[603] *Id.*, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 38-39.

[604] *See* TCG July 16 *Ex Parte* at 2-3.

[605] *See id.* at 3. We note that TCG contends that Ameritech appears to aggregate local and intraLATA calls and thereby "dilut[e] the nature of the local call blocking problem." In addition, TCG states that "since half the trunks run from TCG to Ameritech, and TCG has not experienced any significant blocking within its own network, half of the trunk groups in the sample will show no blocking, artificially inflating Ameritech's performance." *Id.* It is not clear from Ameritech's data what the effect of aggregating local and intraLATA data is on EOI trunk blocking rates or whether the Ameritech EOI blocking rates account for blockage on trunks carrying traffic from TCG to Ameritech. Therefore, we cannot evaluate the merits of these contentions. TCG further asserts that, because Ameritech only measures trunk blockage during the busy hour, we cannot ascertain the extent to which blocking occurs outside that time period. TCG implicitly suggests that such information would aid the Commission in evaluating the magnitude of the blockage problem and in determining whether Ameritech is providing interconnection equal in quality to that which it provides itself. *See id.* We believe that such information could be useful.

[606] Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 40, and Vol. 5R.18, Mickens Reply Aff. at 45.

because Ameritech instituted network management re-routes for these EOI trunks.[607] We note that Ameritech presents this argument for the first time in its reply comments.[608] Moreover, Ameritech provides evidence only regarding Illinois to support this contention.[609] In addition, Ameritech does not even indicate the point at which it began to engage in such re-routing or the percentage of calls that are successfully completed through such re-routing. Indeed, Ameritech has not submitted any data by which the Commission could compare the call completion rates for calls originating from Ameritech customers and terminating on Ameritech's or competing LECs' networks, respectively. Lacking such data, we are unconvinced by Ameritech's unsubstantiated assertion that, "even if a call is blocked, that does not mean that the customer was prevented from ultimately completing a call" or that the competing LEC lost the associated revenue, because "in most instances, the originating caller receives a 'fast busy signal' when placing the call, and then places and completes a call shortly thereafter."[610] As stated above, there is evidence in the record indicating that the customers of competing LECs have reported call blocking of in-bound calls, suggesting that the scenario that Ameritech describes has created unfavorable marketplace perceptions regarding the service that competing LECs provide.[611] We conclude that call completion data would be useful in evaluating whether a petitioning BOC provides interconnection at parity in accordance with the statutory requirements.

4. Evaluation of EOI Trunk Blocking Data

236. Even if we were to assume that the data that Ameritech submitted is a sufficient measure of whether Ameritech provides interconnection equal in quality to that which it provides itself, the difference between the blocking rates on trunks that interconnect competing LECs' networks with Ameritech's network and the blocking rates on Ameritech's retail trunks suggests that Ameritech's interconnection facilities do not meet the technical criteria and service standards that Ameritech uses within its own network.

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[607] Ameritech Reply Comments at 12, and Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 40.

[608] Indeed, several parties move to strike this evidence. *See* AT&T Motion to Strike, Exhibit A; Joint Motion to Strike, Proposed Order. *Compare* Ameritech Michigan's Response to Motions to Strike, Appendix A at 6-7.

[609] Ameritech Reply Comments at 12, and Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 40.

[610] *See id.*, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 38.

[611] *See* Brooks Fiber Comments at 28-29; TCG Comments at 4-8.

237. We note that several parties have urged the Commission to strike the May trunk blocking data from the record.[612] We reiterate that, to preserve the integrity of the statutory 90-day review period, we will not consider data that a BOC submits after filing its section 271 application that is not directly responsive to arguments or factual evidence submitted by other parties.[613] Accordingly, because no party submitted May trunk blocking data or otherwise raised arguments concerning Ameritech's record of trunk blocking that month, we will not consider Ameritech's May data, which reflect performance for a time period after Ameritech submitted its application.

238. Ameritech contends that, when evaluating Ameritech's interconnection performance, the Department of Justice improperly focused on consolidated data for the five-state Ameritech region, rather than examining Michigan data. Ameritech asserts that, "[u]nlike Ameritech's regional operational support systems, it is not reasonable to assume that if an EOI trunking problem exists in another state, it is fair to assume that the problem exists in Michigan."[614] We note that Ameritech itself not only relies on region-wide interconnection data in its original filing, but also continues to cite region-wide data in its reply comments and accompanying affidavits to demonstrate its performance.[615]

239. Moreover, Ameritech's revision of its originally-submitted data in its reply comments calls into question the accuracy of the data that Ameritech has supplied. We emphasize that a petitioning BOC has an obligation to ensure that data submitted in connection with its application are correct at the time of filing to ensure that parties have an adequate opportunity to analyze and respond to the relevant information. In the instant case,

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[612] AT&T Motion to Strike at 6-7; Joint Motion to Strike at 6. *Compare* Ameritech Michigan's Response to Motions to Strike, Appendix A at 6-7 (contending that data respond to the Department of Justice and TCG's arguments regarding EOI trunk blockage).

[613] *See supra* Section IV.B.1.

[614] Ameritech Reply Comments at 11-12, and Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 37-38 (quotation omitted).

[615] We are concerned that Ameritech claimed the Michigan-specific data are proprietary in its initial filing, but submitted the data publicly on reply. This practice undermines the ability of the Michigan Commission and the Department of Justice to effectively consult with the Commission, hampers other parties in filing useful comments, and undermines our ability to issue a decision in the short 90-day timeframe. Moreover, given the extent of the record and the short statutory deadline for reviewing 271 applications, the Commission lacks the resources to engage in the sort of protracted analysis required to make sense of Ameritech's interconnection performance data. We note, for instance, that Ameritech describes the May network blockage statistics as follows: "2.3% in the five-state region and 0.0% in Michigan (compared to 1.0% for Ameritech retail)." Only on further examination does the reader discern that the 1.0 percent figure for Ameritech's retail trunks is calculated on a region-wide, rather than a Michigan-specific basis. Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 39-40. As part of its burden of proof, a petitioning BOC must clearly establish the relevance and meaning of the data it submits. *See supra* Section IV.B.1.

however, the changes in the reported blocking rate percentages buttress the Commission's basic conclusion that Ameritech has not demonstrated compliance with this checklist item.

240. Regardless of whether we consider region-wide or Michigan data, we find the Ameritech data indicate that trunk blocking rates on Ameritech's EOI trunking groups carrying local and intraLATA toll traffic have been significantly higher than blocking rates for Ameritech's interoffice trunking groups that carry traffic destined for Ameritech retail customers. The region-wide data indicate that, in March 1997, the percentage of EOI trunks carrying local and intraLATA toll traffic that experienced blockage greater than 2 percent was 10.7 percent, as compared to 1.1 percent of Ameritech Retail trunks. In April 1997, the EOI blocking rate for local and intraLATA toll trunks was 6.2 percent, as compared to 1.8 percent for Ameritech Retail. The Michigan data indicate that the percentage of trunks carrying local and intraLATA toll traffic that experienced blockage greater than 2 percent was 7.9 percent in March 1997, as compared to .4 percent of Ameritech Retail trunks, and 4.5 percent in April 1997, as compared to 1.2 percent of Ameritech retail trunks. Whether we compare the region-wide blocking rates for EOI trunks carrying local and intraLATA toll traffic to the region-wide Ameritech Retail figures, or the Michigan-specific blocking rates for EOI trunks to the Michigan-specific Ameritech Retail figures, we conclude there are substantial differentials. These differentials suggest that Ameritech's interconnection facilities do not meet the technical criteria and service standards that Ameritech uses within its own network.[616] Moreover, for the reasons discussed below, we find unpersuasive Ameritech's justifications for the higher blocking rates on EOI trunks.

241. In its initial filing, Ameritech argues that a disparity of five to eight percentage points between blocking rates on EOI trunk groups and blocking rates on Ameritech's interoffice trunk groups reflected in its interconnection performance data establish no basis for concern.[617] Ameritech attributes such differentials in part to the relatively smaller size of the competing LEC networks as compared to Ameritech's network, which Ameritech asserts causes increased volatility in competing LEC traffic volumes.[618] Ameritech does not explain the relevance of traffic volatility to the quality of the interconnection that Ameritech provides but seems to imply that unanticipated increases in traffic volumes can exhaust the capacity of

[616] In our analysis, we do not consider data regarding blocking rates on EOI trunks carrying interLATA traffic. The region-wide data indicate that, in March 1997, the percentage of EOI trunks carrying interLATA traffic that experienced blockage greater than 2 percent was 9.7 percent, as compared to 1.1 percent of Ameritech Retail trunks. In April 1997, that EOI blocking rate was 9.1 percent, as compared to 1.8 percent for Ameritech Retail. The Michigan data for EOI trunks carrying interLATA toll traffic indicate that no such trunks blocked more than 2 percent of calls in either March or April 1997.

[617] Ameritech Application, Vol. 2.10, Mickens Aff. at 25-26. As discussed above, on reply, Ameritech acknowledged that the differentials are actually greater than those initially reported.

[618] *Id.*

the interconnection facilities that competing LECs obtain from Ameritech.[619] Indeed, Ameritech provides no empirical or other factual information to support this claim or to explain why it could not compensate for such traffic volatility as it does in engineering its network to carry its own customers' traffic.[620] Like the Department of Justice, we question this explanation for the differentials in call blockage rates, because it is unsupported by factual evidence on the record.[621] We emphasize that, even if differences in traffic volatility exist between Ameritech's and competing LECs' networks, such differences would not justify Ameritech's provision of inferior interconnection facilities. As stated above, pursuant to our *Local Competition Order*, an incumbent LEC is required to provide interconnection facilities to meet the same technical criteria and service standards used in the LEC's network, including the probability of blocking during peak hours.[622]

242. Ameritech also asserts that the competing LECs' failure to advise Ameritech of future significant increases in traffic has contributed to the higher call blocking rates on trunks carrying traffic to competing LECs' customers in March through April, as compared with trunks carrying traffic to Ameritech's retail customers.[623] We agree with the Department of Justice "that EOI trunk blocking rates could potentially be reduced with improved traffic forecasts" and, like the Department of Justice, urge competing LECs to provide such data to the fullest extent possible.[624] Nonetheless, we find that Ameritech has not established on this record that the competing LECs' failure to provide forecast data has been a primary cause for call blocking to competing LECs' customers. Indeed, Ameritech provides only two specific examples of instances in which competing LECs failed to notify Ameritech of the addition of a large customer in advance, one of which took place in Illinois.[625] We note that the Michigan Commission found that Ameritech's performance measures for interconnection are

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[619] *See* Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 41 (stating simply "[t]he greater the traffic volatility, the more trunks are required"); Ameritech Application, Vol. 2.10, Mickens Aff. at 25-26.

[620] *See* Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 41.

[621] *See* Department of Justice Evaluation at 26 and n.35.

[622] *See Local Competition Order*, 11 FCC Rcd at 15614-15.

[623] Ameritech Application, Vol. 2.8, Mayer Aff. at 19-20; Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 40-41, 45-46.

[624] *See* Department of Justice Evaluation at 27.

[625] *See* Ameritech Application, Vol. 2.8, Mayer Aff. at 19-20; Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 45-47.

inadequate precisely because they "do not distinguish things over which Ameritech has control so deviations from the goal can be explained away."[626]

243. We reject Ameritech's suggestion that differentials in call blocking rates on EOI trunks and Ameritech's interoffice trunks are unimportant because the blockage on EOI trunks is not "service-affecting."[627] We reiterate that the relevant question is whether Ameritech is providing interconnection equivalent to the interconnection it provides itself, not whether a competing LEC continues to acquire customers or whether a customer notices the difference in quality in terms of service received from a competing LEC. As stated above, an incumbent LEC's duty to provide interconnection equal in quality is not limited to quality perceived by end-users.[628]

244. We recognize that Ameritech's performance in providing interconnection to competing LECs in Michigan (and in the region) has improved over time. We commend Ameritech for its improved service, but we cannot ignore the differentials in call blocking rates simply because Ameritech's performance data indicate that blocking rates on EOI trunks declined between March 1 and May 31, 1997.[629] Ameritech states that the total number of one-way trunk groups from Ameritech's network to the competing LECs' networks increased by 34 percent in the first quarter of 1997.[630] The provision of additional EOI trunks may account for the reported reduction in EOI trunk blocking rates. Nonetheless, we emphasize that, in order to satisfy its checklist obligation, Ameritech must demonstrate at the time its application is filed that it is providing interconnection equivalent to the interconnection it provides itself, not merely that its interconnection performance data have improved. Moreover, as discussed above, in order to ensure the integrity of the 90-day review process, we shall not consider data from Ameritech demonstrating performance after the date on which Ameritech filed its application, when no party has put performance during that time at issue.[631] Even if we were to rely on Ameritech's data establishing that the EOI blockage rate in Michigan for both intraLATA and interLATA final trunk groups was 0.0% in May, the

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[626] Michigan Commission Consultation at 23-24, 26; *see also* Department of Justice Evaluation at 25 n.32.

[627] Ameritech Reply Comments, Vol. 5R.24, Mickens Reply Aff. at 45 (contending that TCG has made "no credible showing that the shortcomings it alleges are service-affecting" and that TCG could not do so "as TCG continues to successfully expand its customer base at an enviable pace").

[628] *See Local Competition Order*, 11 FCC Rcd at 15614-15.

[629] Ameritech Reply Comments at 12, and Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 39 (criticizing the Department of Justice for failing to account for the significant improvement in Ameritech's trunk blocking data that has occurred over time).

[630] *See* Ameritech Application, Vol. 2.8, Mayer Aff. at 20-21.

[631] *See supra* Section IV.B.1.

figures for May represent only one month of Ameritech's performance. We would find such evidence to be more persuasive if a BOC provides such data over a sufficiently long time to establish stable trends.

245. In sum, we emphasize that we do not conclude here that Ameritech must meet particular interconnection performance benchmarks, except as required pursuant to approved agreements. Nonetheless, we find that the difference between the blocking rates on trunks interconnecting competing LECs with Ameritech's network and the blocking rates on Ameritech's retail trunks suggests that Ameritech interconnection facilities do not meet the technical criteria and service standards that Ameritech uses within its own network. Lacking more information, we cannot conclude that Ameritech has established that it provides competing LECs interconnection equal in quality to that which it provides itself.

5. Efforts to Resolve Blockage Problems

246. Pursuant to section 251(c)(2)(D), Ameritech must provide interconnection arrangements on nondiscriminatory terms, rates, and conditions.[632] When there are network blockage problems, incumbent LECs and competing LECs may resolve the problems by, for example, modifying their network architectures. Establishing appropriate trunking architecture and proper interconnection arrangements is the responsibility of both carriers. In order to provide interconnection on nondiscriminatory terms, however, Ameritech has an obligation to ensure that a competing LEC has sufficient information about its network to remedy network blockage that occurs within Ameritech's network, but affects both Ameritech's customers and the competing LEC's customers. Therefore, Ameritech has an obligation to cooperate with competing LECs to remedy such network blockage.

247. While expanding the capacity of EOI trunk groups can help reduce blockage on the trunks between an Ameritech tandem and a competing LEC's switch, we agree with TCG that such capacity expansions would not address network blockage within Ameritech's network on common trunk groups that deliver competing LEC-bound traffic to Ameritech's tandems.[633] Alternate routing is one possible solution to minimize the impact of such network blockage. An in-bound call to a competing LEC's customer often must be carried across several segments of a link between Ameritech's end office and the competing LEC's switch, of which the EOI trunk group may be but one. For instance, the call may travel from the Ameritech end office to the Ameritech tandem over a common trunk group and then travel from the Ameritech tandem to the competing LEC's end office over an EOI trunk group. Ameritech contends that any blocking that occurs on a common final trunk group behind Ameritech's tandem has an equivalent impact on competing LECs' and Ameritech's

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[632] *See* 47 U.S.C. §§ 251(c)(2)(D), 271(c)(2)(B)(i).

[633] TCG Comments at 5.

customers.[634] As TCG suggests, however, the level of blockage may disproportionately affect competing LECs' customers in some circumstances, where the network blockage results in a disproportionate number of calls not completing to competing LECs' customers.[635]

248. To the extent that Ameritech has a robust network of end office interconnection, a call originating from an Ameritech end office may be connected via other interoffice trunk groups, if the common final trunks to which the call is first routed are blocked. Therefore, a call to an Ameritech customer could complete over one of several alternative paths. If there is no alternate routing connecting the same Ameritech end office where calls originate to the competing LEC's end office, however, calls to the competing LEC's customers originating in that end office and travelling over the common trunk groups may not be completed. Such calls may be blocked before they reach the EOI trunk groups connecting Ameritech's tandem to the competing LEC's end office. Alternate routing could be established by, for example, providing a direct trunk between the Ameritech and competing LEC's end offices. Alternatively, as TCG suggests, calls from Ameritech's customers to a competing LEC's customers could be routed through more than one Ameritech tandem in the event of blockage.[636] If there is no alternate routing and traffic designated for a TCG NXX is blocked, the call may not be completed without further interference such as the network management re-routes described above.

249. TCG contends that it has attempted to resolve problems related to blockage behind Ameritech's tandem for more than six months.[637] TCG asserts that Ameritech has installed trunks to carry traffic from Ameritech's network to TCG's network in such a way that there is a single point of failure at each of the points of interconnection between the two networks.[638] That is, TCG maintains that, although Ameritech provides alternative routing for traffic designated for its own NXXs, there is no alternative routing designated for traffic bound for a TCG NXX that is blocked in Ameritech's network. Thus, TCG claims that Ameritech's handling of traffic destined for TCG's switch is inherently inferior to the multiple routing architecture used to route traffic to Ameritech's NXXs.[639] TCG asserts that Ameritech also has been resistant to working to find a solution to the network blockage problem and has

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[634] Ameritech Application, Vol. 2.10, Mickens Aff. at 22, 24; Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 43.

[635] TCG Comments at 5-6.

[636] *See* TCG Reply Comments at 14.

[637] TCG Comments at 8, Attachment A at 2-5.

[638] *Id.* at 5-6.

[639] *Id.*

reneged on a mutual agreement that would change the routing for TCG's NXXs.[640] TCG also alleges that Ameritech has failed to provide the trunk group-specific traffic data that TCG needs to assess trunk blocking problems in Detroit, as well as Chicago.[641]

250. In its reply comments and affidavits, Ameritech responds that Ameritech is exclusively responsible for managing traffic flows through its public switched network.[642] Ameritech further contends that it has worked jointly with TCG to establish direct trunks between Ameritech and TCG's end offices and to augment EOI tandem trunking, alleging that TCG itself has been the source of problems and delays.[643] Ameritech relies largely on a letter to TCG dated June 17, 1997, as evidence of these efforts to remedy the network blockage problems that competing LECs have experienced.[644] In particular, Ameritech relies on that letter to establish its commitment to provide direct trunking between Ameritech end offices and the TCG switch.[645] Moreover, Ameritech cites the letter to establish that, in May and June, Ameritech and TCG resolved TCG's complaints relating to the competing LEC's efforts to obtain two-way trunking.[646]

251. Based on our review of the entire record, we question whether Ameritech has provided requested interconnection arrangements to competing LECs, and TCG in particular, in a nondiscriminatory fashion. We are unpersuaded by Ameritech's reliance on the actions it

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[640] TCG claims to have attempted to resolve the blocking problems through each of the alternatives described in the Mayer affidavit. *See* Department of Justice Evaluation, Appendix A at A-31, A-32; TCG Comments at 6-8.

[641] TCG Comments at 6-7, Exhibit A at 2-5 (setting forth TCG's requests for "(1) the percentage of trunk groups blocked by route in Ameritech's network, (2) traffic usage data for each TCG NXX to determine which TCG traffic by NXX is getting blocked, and (3) the point(s) in Ameritech's network where the blocking is occurring").

[642] Ameritech Reply Comments, Vol. 5R.12, Kocher Reply Aff. at 27; *see also* Ameritech Application, Vol. 2.8, Mayer Aff. at 22-25 (describing the monitoring and network management tools that Ameritech has used to remedy network blockage; acknowledging that Ameritech "can no longer simply rely upon its automated systems to service and forecast the network capacities required to support end office integration," and stating that Ameritech "has instituted new procedures [which are not described in any detail] to determine when and where direct trunk groups should be established between Ameritech end office switches and CLEC end office switches").

[643] Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 48-55, and Vol. 5R.19, Monti Reply Aff. at 2-4.

[644] *See, e.g., id.*, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 43-44, 47-51.

[645] *Id.* at 49.

[646] *See id.* at 51 (citing June 17, 1997 letter).

has undertaken to remedy network blockage that are described in its June 17, 1997, letter to TCG and that did not occur until after the date Ameritech filed its application.[647] As discussed above, we judge Ameritech's application as of the date it was filed and give no weight in our evaluation of the sufficiency of the May 21, 1997, application, to the post-filing actions that Ameritech has taken to correct problems identified by its competitors. Accordingly, although we are encouraged by Ameritech's efforts to resolve TCG's complaint regarding two-way trunking, which Ameritech contends the parties resolved after the application was filed, we do not consider them in our assessment of whether Ameritech satisfies the requirements of section 271 as of the date of its filing.[648] Moreover, we are not persuaded by Ameritech's future commitments to establish checklist compliance. The June 17 letter offers vague future promises regarding Ameritech's efforts to provide direct trunking between Ameritech end offices and the TCG switch.[649]

252. In response to TCG's allegation regarding its inability to obtain data needed to remedy network blockage, Ameritech describes the "typical report" containing trunk blocking data that it provides to competing LECs.[650] Ameritech fails to establish, however, that it has actually provided such data to competing LECs in Michigan or to TCG in particular.[651] Indeed, Ameritech relies on a future commitment to TCG to furnish necessary call flow data to demonstrate compliance with interconnection requirements.[652] As discussed above,

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[647] *See* AT&T Motion to Strike, Exhibit A; Joint Motion to Strike at 7.

[648] *See* Ameritech Reply Comments, Vol. 5R.6, Edwards Reply Aff. at 16-17, and Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 51 (citing June 17, 1997 letter). *Compare* TCG Comments at 8; TCG July 16 *Ex Parte* at 4-5; *see also* MCI Comments at 26, Sanborn Aff. at 10 (alleging that Ameritech has provided only one-way trunks).

[649] The Ameritech representative states: "We have jointly identified many candidate offices for direct trunking. We anticipate implementing most of these groups." Ameritech Reply Comments, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 49.

[650] *Id.*, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 45. Ameritech likewise describes the "Grade of Service Report," which lists trunk blocking data on a state-by-state and competing LEC-specific basis, that Ameritech is "currently putting together." *Id.*, Vol. 5R.12, Kocher Reply Aff. at 27. We believe that such information would be extremely useful to competing LECs seeking to remedy trunk blocking problems.

[651] Nor does Ameritech show that the half page of data reporting network blocking rates on a consolidated basis for trunks within Ameritech's network in Illinois and Michigan is sufficient to alleviate the Department of Justice's concern that competing LECs possess insufficient data by which to solve EOI blocking problems. *See id.*, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 44.

[652] *Id.*, Vol. 5R.16, Mayer, Mickens, and Rogers Reply Aff. at 44-45. The commitment to which Ameritech refers, however, appears to be no more than a statement that, by June 23, 1997, "Ameritech will provide TCG examples of specific trunk group data that can be used in the regular service meetings [between TCG and Ameritech]." *Id.*, Attachment 7. Several parties move to strike this evidence in any case, because it was submitted at such a late date. *See* AT&T Motion to Strike, Exhibit A; Joint Motion to Strike at 7.

Ameritech cannot meet its burden of proof with regard to checklist compliance by relying on promises of future action.

253. We find that Ameritech has not shown that it provides interconnection on nondiscriminatory terms, because it has not provided competing LECs with the data they need to control trunk blockage, data that Ameritech possesses and may use for itself.[653] Like the Department of Justice, we are concerned that competing LECs may not have access to information about the network needed to solve blocking problems when the blocking occurs on the Ameritech side of the point of interconnection.[654] We recognize that competing LECs cannot identify which Ameritech end offices are likely candidates for augmenting existing EOI trunks or adding direct trunking without access to Ameritech network call flow data.[655] Moreover, we agree with the Department of Justice that, without information by which to identify the sources of blocking, competing LECs may be unable to propose appropriate network reconfigurations.[656]

6. Conclusion

254. We conclude that Ameritech has not established by a preponderance of the evidence that it is providing interconnection that is equal in quality to that which it provides itself and that is available on nondiscriminatory rates, terms, and conditions, as required under section 271(c)(2)(B)(i).

255. The data that Ameritech does provide suggest that Ameritech's interconnection facilities do not meet the technical criteria and service standards that Ameritech uses within its own network. We expect that Ameritech will submit more relevant and reliable interconnection performance data in a future application for Michigan. In particular, we encourage Ameritech to provide information by which we can gauge the impact of trunk

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Compare Ameritech's Response to Motions to Strike, Appendix A at 6-7.

[653] *See* Department of Justice Evaluation, Appendix A at A-31 (concluding that there is evidence to suggest that Ameritech has not provided competing LECs with sufficient ability to control trunk blockage).

[654] *Id.*, Appendix A at A-32 and n.57; *see* ALTS Reply Comments at 8 (stating that Ameritech's inability to produce supporting data for its trunk sizing decisions is fatal to its claim of compliance with this checklist item); TCG Comments at 4 (asserting that TCG has no way of measuring the amount of traffic destined to terminate on TCG's network where the traffic is blocked within Ameritech's network and behind Ameritech's tandem).

[655] As the Department of Justice noted, Ameritech claims that competing LECs could monitor Ameritech's performance using their own OSS data and Ameritech's public regulatory reports (Ameritech Application at 91), a solution that appears inapplicable where competing LECs lack such information. Department of Justice Evaluation, Appendix A at A-32 and n.57.

[656] *Id.*, Appendix A at A-32 and n.57.

blocking data. For example, Ameritech might indicate the size of the trunk groups that are experiencing blockage and the percentage of calls that were blocked. We would find data regarding call completion rates for calls originating on Ameritech's network and terminating with Ameritech customers and competing LECs' customers, respectively, to be useful for measuring parity. Likewise, we urge Ameritech to provide more detailed information on the extent to which it re-routes calls to competing LECs' NXXs when they are blocked, as compared to the extent to which it re-routes calls to its own NXXs.

E. Nondiscriminatory Access to 911 and E911 Services

1. Introduction

256. Section 271(c)(2)(B)(vii)(I) of the competitive checklist requires Ameritech to provide "nondiscriminatory access to . . . 911 and E911 services."[657] In the *Local Competition Order*, we interpreted the word "nondiscriminatory" to include a comparison between the level of service the incumbent LEC provides competitors and the level of service it provides to itself.[658] We interpret the term "nondiscriminatory" for the purposes of section 271 in an identical fashion and find that section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity. Specifically, we find that, pursuant to this requirement, Ameritech must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers.[659] This duty includes populating the 911 database with competitors' end user data and performing error correction for competitors on a nondiscriminatory basis. For facilities-based carriers, nondiscriminatory access to 911 and E911 services also includes the provision of unbundled access to Ameritech's 911 database and 911 interconnection, including the provision of dedicated trunks from the requesting carrier's switching facilities to the 911 control office at parity with what Ameritech provides to itself.[660]

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[657] 47 U.S.C. § 272(c)(2)(B)(vii)(I). Enhanced 911 or "E911" service enables emergency service personnel to identify the approximate location of the party calling 911.

[658] *Local Competition Order*, 11 FCC Rcd at 15612.

[659] The "911 database" actually consists of two separate databases, the Management System, which contains the Master Street Address Guide, and the Selective Routing/Automatic Location Identification (SR/ALI) database, which forwards the 911 call to the appropriate Public Safety Answering Point (PSAP). A PSAP is a centralized agency or facility operated by the local government that receives and responds to emergency calls.

[660] With the exception of one district, Ameritech provides E911 service throughout the state of Michigan. *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 4 n.1. We will, however, use the terms 911 and E911 interchangeably.

257. One of the Commission's statutory mandates under the Communications Act is "promoting safety of life and property through the use of wire and radio communication."[661] As the Commission has previously recognized, "[i]t is difficult to identify a nationwide wire or radio communication service more immediately associated with promoting safety of life and property than 911."[662] We would therefore be remiss in our statutory duties, particularly given the expressed concerns of the Michigan Commission, which are discussed below, if we did not closely examine the steps Ameritech has taken to maintain the accuracy and integrity of the 911 database for competitors in the state of Michigan.

258. Ameritech represents that it provides customers of competing LECs with access to the type of 911 service selected by the municipality in which those competing LEC customers reside in a manner identical to the 911 service supplied to Ameritech's own retail customers.[663] Further, Ameritech asserts that competing LECs interconnect to Ameritech's 911 service in the same manner as Ameritech and receive the same service quality.[664] Specifically, Ameritech contends that its E911 arrangements provide competing carriers with access to its 911 services and trunking from the competing carriers' collocation point to the E911 control office.[665] Moreover, Ameritech maintains that it has established "detailed processes and procedures to ensure 911 database integrity in a multi-carrier environment."[666]

259. No commenters dispute that Ameritech is providing unbundled access to its 911 database. Numerous parties, including Brooks Fiber, MFS WorldCom, and TCG, however, assert that Ameritech has failed to maintain properly its 911 database with correct end user information for competing LEC customers.[667] In addition, Brooks Fiber alleges that Ameritech has failed to provide nondiscriminatory access and interconnection to its 911

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[661] 47 U.S.C. § 151.

[662] *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Notice of Proposed Rulemaking, 9 FCC Rcd 6170, 6171 (1994).

[663] Ameritech Application, Vol. 2.3, Edwards Aff. at 57.

[664] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 4.

[665] Ameritech Application, Vol. 2.3, Edwards Aff. at 57.

[666] Ameritech Application at 47; *see also* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 4.

[667] *See* Brooks Fiber Comments at 26-28; Brooks Fiber Reply Comments at 6; Michigan Consumer Federation Comments at 13; Michigan Attorney General Comments at 6-7; TCG Comments at 20-21; MFS WorldCom Comments at 38-39 and Schroeder Aff. at 11-15. We note that Ameritech has entered into 911 interconnection agreements with AT&T, Brooks Fiber, MFS WorldCom, MCI Metro, Sprint, and TCG. *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 14.

database.[668] Significantly, the Michigan Commission found the quality of Ameritech's 911 database to be "suspect" and Ameritech's coordination of data entry with competing carriers and error correction to be "at best, poor."[669] In concluding that Ameritech did not satisfy this checklist item, the Michigan Commission maintained that it would "indicate compliance with [section 271(c)(2)(B)(vii)(I)] only after Ameritech has shown the [Michigan Commission] and/or the FCC that it has established and pursued methods to ensure accurate 9-1-1 databases and proof that it is in fact performing the data entry and error correction coordination role required by its interconnection agreements."[670] The Department of Justice concluded that, because it lacked sufficient information, it was unable to determine whether Ameritech is providing E911 services on an adequate and nondiscriminatory basis.[671]

260. We conclude that Ameritech has not met its burden of demonstrating, by a preponderance of the evidence, that it is providing nondiscriminatory access to its 911 services. Specifically, based on the record in this proceeding, we find that Ameritech maintains entries in its 911 database for its own customers with greater accuracy and reliability than entries for the customers for competing LEC entries. In reaching this conclusion, we find it significant that there have been at least three instances involving customers of competing carriers, one as recently as May 21, 1997, where incorrect end user information was sent to emergency services personnel. Ameritech, which has acknowledged fault in all three incidents, has presented no evidence to demonstrate the 911 database error rate for competing LEC information is equivalent to the error rate for Ameritech's own customers. We also conclude that Ameritech has not demonstrated that it provides facilities-based competitors that physically interconnect with Ameritech access to the 911 database in a manner that is at parity with the access it provides itself. In addition to these parity issues, we have concerns regarding Ameritech's efforts to detect and remedy errors in competitors' end user 911 data and in the proper functioning of competitors' trunking facilities. In particular, it appears that Ameritech has not taken adequate preventative measures to do its part in avoiding future errors in competitors' data in the 911 database.[672] In view of our

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[668] Brooks Fiber Comments at 26-28.

[669] Michigan Commission Consultation at 43.

[670] *Id.* at 43-44. We note that, while the Michigan Commission, in its consultation, focuses on Ameritech's obligation to provide 911 service as required by its interconnection agreements, our focus in the instant proceeding is whether Ameritech is providing competitors "nondiscriminatory access" to its 911 service as required by section 271(c)(2)(B)(vii)(I). The following analysis, therefore, is confined solely to the issue of whether Ameritech is providing 911 service as required by the terms of the competitive checklist.

[671] *See* Department of Justice Evaluation at 9 n.16.

[672] As discussed below, Ameritech has a duty to maintain the 911 databases and serve in a coordination role for error resolution. We emphasize that it is not our intention to hold Ameritech responsible for errors made by its competitors.

findings that Ameritech does not maintain the accuracy of the 911 database or provide access to this database in a nondiscriminatory manner, we agree with the Michigan Commission that Ameritech has failed to demonstrate its compliance with this checklist item.

2. Discussion

261. According to Ameritech, there are essentially two key aspects of providing 911 to end users in Michigan. First, Ameritech must establish and test the trunks of those facilities-based competing carriers that physically interconnect with Ameritech. Second, Ameritech must maintain the 911 databases by populating them, updating them, and serving in a coordination role for error resolution.[673] The provision of 911 service also requires a cooperative effort between Ameritech and competing LECs that are responsible for, among other things, ordering a sufficient number of trunks, jointly testing the trunks with Ameritech, and delivering accurate and complete end user information to Ameritech.[674]

262. All the commenters on this issue object to the manner in which Ameritech is maintaining its 911 database. Several point to the formal complaint, pending before the Michigan Commission, filed against Ameritech by the City of Southfield, Michigan, which calls into question the manner in which Ameritech provides access to its 911 database and the accuracy of its database.[675] According to the Michigan Commission, the record in the complaint proceeding identifies two specific instances, both potentially life threatening, where incorrect automatic location identification information was given to the Public Safety Answering Point (PSAP) or emergency calls were routed to the improper PSAP.[676] The Michigan Commission also cites a third event that occurred on May 21, 1997, the date Ameritech filed its section 271 application. We find that these incidents, all of which were

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[673] *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 10, 12.

[674] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 12.

[675] *See* Michigan Commission Consultation at 41-43; Michigan Consumer Federation Comments at 13; Michigan Attorney General Comments at 6-7; TCG Comments at 20; *Complaint of the City of Southfield Against Ameritech Michigan*, Michigan Public Service Commission Case No. U-11229 (filed Oct. 24, 1996). According to the Michigan Commission, a decision in this proceeding is still pending. Michigan Commission Consultation at 42. We note that on July 9, 1997, an Administrative Law Judge of the Michigan Commission issued a "Proposal for Decision" in the Southfield Complaint case. In this decision, the Administrative Law Judge adopted the Michigan Commission staff's "Rehabilitation Plan for Ameritech's 9-1-1 Service." This plan requires Ameritech to improve the accuracy of its 911 database by, among other things, making Ameritech responsible for the correct information appearing on the PSAP screen and requiring Ameritech to take measures to ensure the verification, correction, and ultimate accuracy of this information. *See In the Matter of the Complaint of the City of Southfield against Ameritech Michigan*, Michigan Public Service Commission Case No. U-11229, Proposal for Decision (July 9, 1997) (Proposal for Decision).

[676] *See* Michigan Commission Consultation at 42; Michigan Consumer Federation Comments, Attachment A (*911 Errors Fuel Debate*, The Detroit News, June 5, 1997, at B1) (*911 Article*).

the result of errors made by Ameritech, call into question whether Ameritech maintains the accuracy and integrity of competing LEC entries in the 911 database in the same manner as it does for its own entries.

263. According to Ameritech, all three incidents stemmed from incorrect competitor end user information in Ameritech's billing records, which led to errors in competitors' service records in the 911 database. Ameritech acknowledges that all three incidents were caused by separate errors on the part of Ameritech. The first incident, which occurred October 12, 1996, involved an end user served by TCG's facilities. Ameritech explains that, in the situation where the competing LEC uses its own local switch, the competing LEC is responsible for providing its end users' information to Ameritech. These 911 data records are provided to Ameritech by the competitor on either a manual or mechanized basis.[677] At the time that TCG was originally assigned NXX codes for its use, Ameritech's billing system automatically generated service orders that reserved these telephone numbers.[678] These service orders, when sent to the 911 database, populated the 911 records with TCG's name and TCG's collocation address (the Ameritech central office) as if that were the name and address of the TCG end users to whom the numbers were ultimately assigned.[679] Thus, when any of those TCG customers placed a 911 call, "TCG" would appear on the PSAP display screen as the end user name and TCG's collocation address appeared as the end user address. The October 12th incident occurred because, while in the process of resolving this problem, Ameritech inadvertently deleted some TCG customer information from the 911 database, including the information for a TCG end user.[680] This created a potentially life threatening situation when that end user was the victim of a shooting.[681]

264. Another incident occurred on January 30, 1997, and involved a MFS WorldCom end user served via resold Centrex service. Ameritech explains that, if a competing LEC operates as a reseller or purchases unbundled local switching, Ameritech inputs the competing LEC's end user's name and address into the 911 database via

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[677] Brooks Fiber is currently the only competing LEC that provides Ameritech with 911 records on a mechanized basis. *See* Ameritech Application, Vol. 2.8, Mayer Aff. at 98; Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 8.

[678] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 18 ("[t]he root cause for the situation was identified in Ameritech Michigan's billing system.").

[679] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 18.

[680] *Id.*, Vol: 5R.11, Jenkins Reply Aff. at 25.

[681] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 23; *see also* Proposal for Decision at 19.

Ameritech's service order system based on the competing LEC's service order.[682] Ameritech claims that the second incident occurred because Ameritech's service billing records did not contain a special field identifier indicating that the competing LEC's customer had a different address from the competitor's billing address.[683] For example, although MFS WorldCom's end users were provisioned using Ameritech's Centrex resale services, when they placed a 911 call, "MFS" would appear on the PSAP display screen as the end user name and MFS WorldCom's billing address would appear as the end user's address. The third incident, which occurred on May 21, 1997, also involved a MFS WorldCom end user. Ameritech claims that human error caused one of MFS WorldCom's end user records not to be updated in the manual review of MFS WorldCom's Centrex accounts.[684]

265. In response to allegations that it does not provide nondiscriminatory access to its 911 services, Ameritech cites various statistics concerning its provision of 911 service, including overall error rates for its 911 database, and describes at length the procedures that it either has established, or is in the process of establishing, to ensure that its competitors' 911 data are accurately populated and that errors are detected and remedied quickly. Ameritech does not, however, provide any statistics or other evidence reflecting the accuracy rate for Ameritech's own 911 records or otherwise demonstrate that it is maintaining the 911 database entries for competitors' end users with the same accuracy and reliability that it maintains the database entries for its customers. Noting the absence of such information, the Michigan Commission observed that "no actual reports have been provided to the [Michigan Commission] on which [OSS performance relative to 911] can begin to be assessed."[685] Without more information, we are unable to find that Ameritech has met its burden of demonstrating by a preponderance of the evidence that it is maintaining the accuracy of its 911 database at parity.

266. With respect to the evidence in the record, Ameritech observes that the overall accuracy rate for its 911 database in each of the months between October 1996 and May 1997

[682] Ameritech explains that competing LECs have three options for updating their end user information in the 911 database. They can use a mechanized send, a manual send, where the competing LEC completes a form and faxes it to Ameritech, or contract directly with Ameritech's database vendor for its clearinghouse service. Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 13-14.

[683] *Id.*, Vol. 5R.11, Jenkins Reply Aff., Schedule 4, Appendix F (stating that "Ameritech has since recognized this processing error and is currently developing a data check in the processing of service orders").

[684] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 20.

[685] Michigan Commission Consultation at 32.

was at or near 99.8%.[686] Ameritech does not indicate, however, what portion of the remaining .2% is the result of inaccuracies in Ameritech customer records and what portion results from inaccuracies in competing LEC customer records.[687] For example, as evidence of its 99.8% accuracy rate for these months, Ameritech provides a chart entitled "9-1-1 Database Statistics," that summarizes, among other things, the number of trouble tickets submitted to Ameritech from PSAPs each month and the percentage of calls received with reported trouble.[688] Notably, Ameritech does not disaggregate these statistics so that one can identify terms of the errors reported for customers of competing carriers versus the errors reported for its own customers.[689]

267. Moreover, although Ameritech submits statistics on the error rates for some competing LECs detected through its verification and reconciliation process, *i.e.*, comparisons of the data in Ameritech's service billing records or competing LEC data files with the end user information contained in the 911 database and the correction any discrepancies, it does not submit similar statistics with respect to its own error rates.[690] For example, according to Ameritech, the percentage of errors discovered in a review of the accuracy of end user information in the 911 database with respect to MFS WorldCom customers who are served on

[686] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 3. The Joint Motion to Strike moves to strike this and other new evidence submitted by Ameritech regarding its 911 services. *See* Joint Motion to Strike, Proposed Order at 2. We conclude that most of this new evidence is directly responsive to commenters' arguments that Ameritech has failed to maintain properly its 911 database with correct end user information. As noted above, however, we also find that, given the formal complaint pending before the Michigan Commission concerning Ameritech's 911 services, Ameritech should have anticipated that its provision of 911 service would be at issue in the instant proceeding. *See supra* at para. 58. We therefore believe that much of the new evidence filed on reply with respect to 911 services should have been submitted in Ameritech's initial application. Nonetheless, even considering all the evidence that Ameritech has put forth on reply, it does not meet its evidentiary burden of demonstrating that it provides nondiscriminatory access to its 911 services.

[687] Needless to say, competing LEC errors in their own customer records are not the responsibility of Ameritech. As mentioned above, these carriers are obligated to deliver accurate and complete end user information to Ameritech. *See supra* para. 261.

[688] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 3.

[689] According to news reports, data errors are five times more likely for competing LEC customers than they are for Ameritech customers. *See* Michigan Consumer Federation Comments, Attachment A, *911 Article*.

[690] Similarly, with respect to its obligation to provide nondiscriminatory 911 interconnection, although Ameritech provided 911 trunk installation data with respect to trunks provided to competing carriers, it does not offer corresponding data for trunks installed for itself. Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 5.

a facilities basis was 37%.[691] Without corresponding information concerning the error rates for Ameritech end users, we have no way to measure Ameritech's performance. Further, although TCG contends that many of the errors found with respect to TCG end user data in the 911 database were the result of "improper loading of the data by Ameritech,"[692] we have no way of knowing how many of the errors in the 911 database involving competing LEC end user data result from improper loading on the part of Ameritech as opposed to incorrect data submitted by competing LECs. Nor is there any evidence in the record to suggest that any 911 database errors resulted from incorrect data submitted by competing LECs. Accordingly, we have no basis in this record for concluding that Ameritech is providing nondiscriminatory access to its 911 database.

268. The only data Ameritech submits by which we can judge its performance for others against its performance for itself is a chart reflecting 911 database processing statistics for mechanized sends, *i.e.*, data that is sent to Ameritech electronically.[693] Specifically, this chart summarizes the number of minutes from the time a 911 record is received by Ameritech until it is entered into the 911 database, as well as the percentage of new 911 service records that Ameritech processes in a single business day. Although, according to this chart, Ameritech processes 100% of the mechanized sends it receives in one business day,[694] including its own, these statistics provide no indication of Ameritech's *accuracy rate* in processing its own 911 data, as opposed to anyone else's 911 data.

269. In addition to the shortcomings we have identified with respect to the evidence on which Ameritech relies to establish nondiscrimination, we believe that certain evidence submitted by Ameritech actually demonstrates that Ameritech is not presently providing access to its 911 database at parity. First, Ameritech explains that, in response to "expressed interest" to have query access to the 911 database, it is developing a service that will provide competing LECs with electronic, view-only access to the 911 database in order to allow them

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[691] *See id.*, Vol. 5R.11, Jenkins Reply Aff., Schedule 10. We note that the verification and reconciliation performed for competing LEC 911 end user data varies according to how the end user is served, i.e., whether the end user is served via Centrex resale, wholesale resale, or facilities-based service arrangement. Thus, a separate review is performed for each type of end user. *See id.*

[692] TCG Comments, Exh. A, Pelletier Aff. at 6.

[693] *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 8. In a "mechanized send" the competing LEC provides Ameritech its 911 end user data electronically in an industry standard format, or via diskette, and the data is mechanically input into Ameritech's 911 database. In a "manual send" a competing LEC completes a standard form containing its 911 end user data and provides it to Ameritech via fax. The data is then manually input into the 911 database by Ameritech. *Id.* at 13-14.

[694] Ameritech, however, fails to provide any data on how quickly and efficiently it processes manual sends which, as noted above, is the method used by most facilities-based LECs that have interconnection agreements with Ameritech. *See supra* note 677.

real-time data validation.[695] Ameritech then asserts that this query access "will be the same as used by Ameritech 911 personnel."[696] This statement suggests that Ameritech, as of the day of its section 271 filing, and indeed as of the day of its reply comments, was not providing competing carriers equivalent access to the 911 database. As discussed above, the fact that it "is developing" such a service is inadequate to meet Ameritech's evidentiary burden of demonstrating that it currently provides equivalent 911 database access to competitors.[697] Paper promises of future nondiscrimination are not sufficient.

270. Second, Brooks Fiber asserts that Ameritech has been providing, and continues to provide, it with a mechanized feed to Ameritech's 911 system that is inferior to the one Ameritech uses for its own 911 database entries.[698] Although there is a dispute in the record as to *when* Brooks Fiber actually requested an upgrade to its 911 feed, Ameritech does not deny that Brooks Fiber has requested such an upgrade.[699] In fact, in its reply comments, Ameritech asserts that implementation of this upgrade, which may address data exchange needs for other services as well, "is still in progress."[700] There is no indication in the record that the access that Brooks Fiber is presently receiving is equivalent to Ameritech's access to

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[695] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 22-23.

[696] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 23 and n.7 (noting that only Ameritech 911 personnel and not Ameritech's sales and service employees have query access).

[697] *See supra* para. 55.

[698] *See* Brooks Fiber Comments, Exh. H, Brooks Fiber Communication's Submission of Additional Information in Response to Ameritech Michigan Regarding 911 Services and Service Order Performance, Michigan Public Service Commission Case No. U-11104, at 4 (filed June 5, 1997) (Additional Information Regarding 911 Services); *see also* Michigan Commission Consultation, Vol. 2, Entry # 154, Transcript of May 28, 1997, hearing at 169-172 (testimony of Mary Bogue, IT Application Development Manager for Brooks Fiber) (Bogue Testimony).

[699] Brooks Fiber claims that it initially requested an upgrade in November 1996 and the upgrade was to have been completed by January 15, 1997. Ameritech, on the other hand, maintains that Brooks Fiber did not request an upgrade until February 1997. Brooks Fiber Comments at 28; Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 28.

[700] *Id.*, Vol. 5R.10, Heltsley, Hollis, and Larsen Reply Aff. at 18-19; Michigan Commission Consultation, Vol. 3, Entry #155, Ameritech Michigan's Submission of Additional Information in Response to Brooks Fiber Concerning 911 Services and Service Order Performance, Michigan Public Service Commission Case No. U-11104, at 5-7 (filed June 2, 1997) (Ameritech June 2 Comments). We note that this upgrade would be capable of handling both 911 and directory assistance transmissions between Brooks Fiber and Ameritech. Brooks Fiber Comments at 28.

the 911 database.[701] Moreover, there is no evidence in the record to suggest that, once Brooks Fiber receives the upgrade, it *will be* receiving equivalent access.[702] Ameritech, in response, points only to the fact that Brooks Fiber has been submitting 911 data to Ameritech in a mechanized format since 1995, "using an alternative process developed by [Ameritech] specially for Brooks Fiber."[703] The relevant issue for checklist compliance, however, is not whether Brooks Fiber has the capability to submit 911 data to Ameritech in a mechanized format, but whether Ameritech is presently providing equivalent access to its 911 database. We find that, even if we were to assume that the requested upgrade would provide Brooks Fiber with equivalent access to the 911 database, Ameritech has failed to satisfy its burden of proving by a preponderance of the evidence that it is "providing" nondiscriminatory access to its 911 database.

271. As discussed above, a BOC "provides" a checklist item if it provides the item at rates and on terms and conditions that comply with the Act.[704] In order to be "providing" an item, the petitioning BOC must demonstrate that it is *presently* ready to furnish each checklist item in the quantities that competitors may reasonably demand and at an acceptable level of quality.[705] Thus, even if Brooks Fiber requested an "inferior" feed in 1995, in order for Ameritech to demonstrate in its section 271 application that it is providing nondiscriminatory access to its 911 database, Ameritech must be "presently ready to furnish" equivalent access to its 911 database upon request. Although Ameritech contends that Brooks Fiber did not make the request for an upgrade until February 1997, it admits that as of July 1, 1997, the implementation of Brooks Fiber's request was "still in progress."[706] The exact status of the "implementation," however, is unclear from the record. That is, it is not evident whether Ameritech has actually developed the upgrade, whether the upgrade has been tested, or when the upgrade will be available to Brooks Fiber. There is no basis in the record, therefore, to conclude that Ameritech is "presently ready to furnish" equivalent access its 911 database. For this reason, we conclude that Ameritech is not providing nondiscriminatory access to its 911 database.

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[701] In fact, it appears that Brooks Fiber's present feed, which is a dial-up service, is not equivalent to Ameritech's access to the 911 database. *See* Michigan Commission Consultation, Vol. 2, Entry #154, Bogue Testimony at 169.

[702] Similarly, Ameritech does not contend that this upgrade would result in access to the 911 database that is superior to its own access.

[703] Ameritech Reply Comments, Vol. 5R.10, Heltsley, Hollis, and Larsen Reply Aff. at 18.

[704] *See supra* para. 110.

[705] *See supra* at para. 110.

[706] Ameritech Reply Comments, Vol. 5R.10, Heltsely, Hollis, and Larsen Reply Aff. at 18.

272. In addition to the parity issues discussed so far with respect to 911 database accuracy and access, we have concerns regarding the manner in which Ameritech detects and remedies errors in competitors' end user 911 data and in the proper functioning of competing LEC's trunking facilities. With regard to error detection, the record indicates that Ameritech stopped providing Brooks Fiber the daily error reports necessary for Brooks Fiber to correct discrepancies in its customers' 911 data for a period of six months.[707] According to Ameritech, it was unaware that Brooks Fiber had not been receiving error reports until April 25, 1997, when it learned of the situation from a Brooks Fiber representative at an industry forum in Michigan.[708] Further, despite Ameritech's contention that no errors went uncorrected during this time, Brooks Fiber asserts that it received an error report totalling over several hundred pages from Ameritech's vendor shortly after the provision of reports was restored. [709] The Michigan Commission found this breakdown in the provision of error reports to be indicative of the fact that there is "little or no confirmation of data entry or error correction" provided to competitors with respect to their customers.[710] Although Ameritech ultimately reinstated the provision of daily reports, it has not indicated what actions it has taken to detect such a breakdown in a more timely manner or identified what procedures it has implemented to ensure that a similar breakdown will not occur. Moreover, we note that it was nearly two weeks later, May 7, 1997, before the provision of these reports was reinstated.[711]

273. In another incident, Ameritech, in order to complete "call-through" testing on Brooks Fiber's dedicated trunking facilities,[712] unilaterally deactivated all 911 trunks serving

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[707] Michigan Commission Consultation, Vol. 3, Entry #155, Ameritech June 2 Comments, at 6. These reports reflect the number of records processed and the number of existing errors in those records. Ameritech Application, Vol. 2.8, Mayer Aff. at 98.

[708] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 16; Michigan Commission Consultation, Vol. 3, Entry #155, Ameritech June 2 Comments at 6-7. Brooks Fiber asserts that, beginning in January, it repeatedly notified Ameritech of the breakdown and Ameritech repeatedly failed to respond. *See* Brooks Fiber Comments, Exh. H, Additional Information Regarding 911 Services, at 4.

[709] Brooks Fiber Comments, Exh. H, Additional Information Regarding 911 Services, at 4 (stating that Brooks Fiber received a 389 page error report on May 28, 1997).

[710] Michigan Commission Consultation at 43.

[711] *See id.*; Ameritech Application, Vol. 2.8, Mayer Aff. at 98; Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 16; Brooks Fiber Comments, Exh. H, Additional Information Regarding 911 Services, at 4.

[712] Ameritech explains that "call-through" testing ensures that a 911 call is appropriately routed to the PSAP and that the call transmission quality is acceptable. Ameritech Reply Comments, Vol. 5R.11, Jenkins Aff. at 27.

Brooks Fiber's switch without notice.[713] As a result, according to Brooks Fiber, Ameritech terminated 911 service to all of Brooks Fiber's Lansing customers for nine days.[714] Although Ameritech claims that it was unaware that the trunks it deactivated were carrying live traffic, there is no evidence to suggest that Ameritech has taken any actions to ensure that, in the future, it will determine whether there is live traffic on 911 trunks before proceeding to deactivate them.[715] Similarly, Ameritech has provided no evidence indicating what procedures it has implemented to ensure that it will not deactivate a competitor's 911 trunks without warning.

274. This incident, as well as the other incidents described above, pose very serious public safety and competitive concerns. For example, by deactivating Brooks Fiber's 911 trunks in the manner that it did, Ameritech placed the health, safety, and welfare of Brooks Fiber's customers in jeopardy for the nine days they were without 911 service. Moreover, it is indisputable that any adverse disparity between the type of 911 service received by competitors' customers and the 911 service received by Ameritech's customers places competing carriers at a competitive disadvantage. As MFS WorldCom asserts, "competitors like [MFS] WorldCom clearly stand to lose more good will than Ameritech when the public is alerted to [these 911 problems]."[716] Incidents such as the ones described above inevitably give customers the impression that a competing LEC's network is not as reliable as the incumbent's when matters of life and death are at stake. Errors by Ameritech in the provision of 911 service, therefore, threaten the ability of its competitors to effectively compete. More importantly, such errors, as demonstrated by the record in this proceeding, endanger lives.

275. With respect to remedial measures, as TCG points out, "it is not only the error checking routines prior to entry of the information into the [911] database which is critical, but how . . . rapidly and effectively discovered errors are corrected which is of great concern."[717] For example, Ameritech's solution to the problems discovered in its service

[713] Brooks Fiber Comments at 26-27; Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 27-28.

[714] Brooks Fiber Comments at 27; Michigan Commission Consultation, Vol. 3, Entry #155, Ameritech June 2 Comments, at 3-4.

[715] We note that, in its reply, Ameritech merely claims that when a similar situation occurred, its 911 service manager "was aware that there was live traffic on the trunks" and was able to coordinate the trunk testing with Brooks Fiber. Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 28.

[716] MFS WorldCom Comments, Schroeder Aff. at 15.

[717] TCG Comments at 21.

billing records was to manually reload the data of the competing carriers' customers.[718] This, however, was an extremely time-consuming, and in Ameritech's own words, "laborious" process.[719] In fact, it took Ameritech nearly four months to reload manually the 911 data related to TCG end users. Notably, it was while Ameritech was reloading this data that a TCG customer's life was placed in jeopardy when 911 dispatchers were unable to receive information as to the customer's location because the record had been inadvertently purged from Ameritech's database. It is far from clear that Ameritech would undertake this type of "laborious" manual reload if it were correcting its own 911 data.

276. According to Ameritech's reply, it has "instituted a number of checks, balances, and verification procedures to address database integrity and is continuously searching for process improvements."[720] We agree with MFS WorldCom, however, that, although Ameritech appears to be genuinely trying to resolve the problems it has thus far experienced in integrating competing LEC customer information into the E911 system, the continuing difficulties show that the problems have not yet been resolved.[721] We recognize, as Ameritech repeatedly indicates, that the maintenance of the 911 database is a cooperative process that is dependent on competing LECs providing accurate and complete data to Ameritech in a timely manner.[722] As mentioned above, however, by Ameritech's own admission, none of the three incidents described by the Michigan Commission was the fault of a competing carrier. It appears therefore that, as the Michigan Commission suggests, it is incumbent upon Ameritech to take additional preventative measures. Preventative, rather than remedial, measures are particularly imperative where, as Brooks Fiber points out, matters of health, safety, and welfare are at issue. Until such measures are taken, we agree with the Michigan Attorney General that the emergency services situation in Michigan will continue to be "fraught with significant public health and safety concerns."[723]

277. Ameritech states that accuracy in the 911 database is its "primary objective." We applaud this goal and note that Ameritech appears to have taken significant actions to

[718] As TCG contends "[t]he need to reload the database has resulted in a lack of confidence in the future integrity of the database." TCG Comments, Exh.A, Pelletier Aff. at 6.

[719] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 29.

[720] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 10.

[721] MFS WorldCom Comments, Schroeder Aff. at 15.

[722] *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 13, 21.

[723] Michigan Attorney General Comments at 7.

address database integrity concerns when it became aware of them.[724] We note, however, that some of these actions have not gone far enough. Although we have no doubt that Ameritech is "constantly working to make [its procedures and safeguards] better,"[725] it cannot meet its burden of proof with paper promises of actions it plans to take either during the 90-day review process for this application or at some future date. For example, Ameritech asserts that it "is developing" a reporting mechanism to be provided to competing LECs summarizing the accuracy of Ameritech's manual inputs for each competing LEC on a business day,[726] that it "will continue to pursue and develop processes to mechanically verify the data for end users served via Centrex resale,"[727] that it "is developing" an electronic, view-only access to the 911 database for competitors,[728] and that the implementation of Brooks Fiber's 911 upgrade "is still in progress."[729] Should Ameritech refile its section 271 application at some future date and provide evidence of its completion of these improvements as part of its showing to demonstrate its compliance with this checklist item, we will fully consider such evidence.

278. We do not suggest, however, that Ameritech's 911 database must be error free in order to achieve checklist compliance.[730] We recognize, as Ameritech asserts, that holding

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[724] By its own admission, Ameritech only instituted procedures to perform an accuracy review of all competing LEC end user data in its 911 database after the events occurred which gave rise to the formal complaint filed by the City of Southfield. Ameritech Application, Vol. 4.1, Ameritech Michigan's Submission of Additional Information, Michigan Public Service Commission Case No. U-11104, Tab 110 at 18 (filed Mar. 27, 1997); Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 17.

[725] Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 25.

[726] *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff. at 16 (stating that it plans to have such a reporting mechanism in place by July 10, 1997). We note that competing LECs that choose to update their customer end user information on a manual (as opposed to a mechanized) basis are responsible for faxing accurate and complete end user data to Ameritech. Ameritech is then responsible for manually inputting this data into the 911 database. *See supra* note 693.

[727] *See* Ameritech Reply Comments, Vol. 5R.11, Jenkins Reply Aff., Schedule 10 (July 1, 1997 letter to MFS). We note that, in the Jenkins Reply Affidavit, dated July 2, 1997, however, Ameritech asserts that it "*has [ ] developed a mechanized procedure* to verify that the appropriate data appears in the 9-1-1 database for resold Centrexes." *See id.*, Vol. 5R.11, Jenkins Reply Aff. at 20 (emphasis added). There is no description on such a mechanized procedure in the record and no other indication that one exists.

[728] *Id.*, Vol. 5R.11, Jenkins Reply Aff. at 22-23.

[729] *Id.*, Vol. 5R.10, Heltsley, Hollis, and Larsen Reply Aff. at 18.

[730] At the same time, however, we do not purport to limit the obligation to maintain an error free 911 database that may be imposed on Ameritech under state or local law, or by the Michigan Commission. *See* Proposal for Decision at 11 (describing "Rehabilitation Plan for Ameritech's 9-1-1 Service" adopted by an Administrative Law Judge for the Michigan Commission which requires Ameritech, among other things, to perform 100% verification of the systems and databases used to provide 911 service).